STATE OF MICHIGAN

COURT OF APPEALS

IN RE ADOPTION OF KEELY SHAYE LILLIAN MARIE GIBSON-NEWBERRY and MERCEDES ISABELLA MAE GIBSON-NEWBERRY, MINORS.

DAVID GIBSON and JOAN GIBSON,

Petitioners-Appellants,

v

MICHIGAN CHILDREN'S INSTITUTE,

Respondent-Appellee,

and

BRUCE JONES and CONNIE JONES,

Appellees.

UNPUBLISHED
April 19, 2007

No. 272568
Branch Circuit Court
Family Division
LC No. 04-002805-NA

Before: Saad, P.J., and Hoekstra and Smolenski, JJ.

PER CURIAM.

Petitioners appeal as of right the trial court order determining that it was precluded from considering their motion for redetermination under MCL 710.45(2). We affirm.

The parental rights of the parents of the minor adoptees were terminated on March 17, 2005, and this Court affirmed the termination decision.[1] On June 19, 2006, respondent Michigan Children's Institute (MCI) denied consent to the adoptions to petitioners, the minor children's maternal great-grandparents. Petitioners allegedly received notice of the decision on June 23, 2006. On June 26, 2006, jurisdiction of the court was terminated and the minor children were adopted by their foster parents, appellees Bruce and Connie Jones. On August 2, 2006,

[1] *In re Gibson-Newberry, Minors*, unpublished opinion per curiam of the Court of Appeals, issued October 25, 2005 (Docket Nos. 261614, 261657).

petitioners attempted to file a motion under MCL 710.45 for redetermination of the decision denying their adoption petition, commonly referred to as a "§ 45 motion." On August 3, 2006, following a hearing, the trial court entered an order providing that "MCL 710.45(3)(b) precludes the filing of a motion under MCL 710.45(2) as an order of adoption has previously been entered."

We review for an abuse of discretion a trial court's decision on a motion for redetermination. *In re Moukalled Estate*, 269 Mich App 708, 713; 714 NW2d 400 (2006); *In re TMK*, 242 Mich App 302, 304; 617 NW2d 925 (2000). We review de novo constitutional issues, *Dorman v Clinton Twp*, 269 Mich App 638, 644; 714 NW2d 350 (2006), as we do questions of statutory interpretation, *Moukalled*, *supra* at 713.

MCL 710.43(1)(b) provides that consent to the adoption of a child shall be executed "[b]y the authorized representative of the department or of a child placing agency to whom the child has been permanently committed by an order of the court." Under MCL 710.45(2), "[i]f an adoption petitioner has been unable to obtain the consent required by section 43(1)(b), (c), or (d) of this chapter, the petitioner may file a motion with the court alleging that the decision to withhold consent was arbitrary and capricious." However, MCL 710.45(3) provides that,

> If consent has been given to another petitioner and if the child has been placed with that other petitioner according to an order under section 51 of this chapter, a motion under this section shall not be brought after either of the following:
>
> (a) Fifty-six days following the entry of the order placing the child.
>
> (b) Entry of an order of adoption.

Here, petitioners were denied consent to the adoptions by a letter dated June 19, 2006, which they allegedly received on June 23, 2006. On August 2, 2006, petitioners attempted to file a § 45 motion. However, the Jones' adopted the minor children on June 26, 2006. MCL 710.45(3)(b) specifically provides that a motion for redetermination "shall not be brought after . . . [e]ntry of an order of adoption." The word "shall" is unambiguous and denotes a mandatory action. *Roberts v Mecosta Co Gen Hosp*, 466 Mich 57, 65; 642 NW2d 663 (2002). Thus, under the plain language of MCL 710.45(3)(b), petitioners were precluded from bringing their motion for redetermination because an order of adoption had already been entered. Accordingly, the trial court did not err when it concluded that the petitioners' motion was barred.

Petitioners also argue that the trial court violated their procedural due process rights when it refused to give them the full 56 days to file their motion under MCL 710.45. In support of this argument, petitioners make vague allegations concerning possible "collusion between the local office of the DHS and the office of the MCI" and claim that other courts have adopted rules that provide for a full "56 days before the adoption can be completed" in a contested application. Petitioners then conclude that, as written, the statute permits "invidious state action" by depriving persons the right to petition the court for relief and, consequently, should not be permitted to stand. However, because these allegations are unsupported by proper analysis and citation to authority, we conclude that petitioners have abandoned this issue on appeal. Therefore, we decline to address it. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959) ("It is not enough for an appellant in his brief simply to announce a position or assert an

error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.").

Affirmed.

/s/ Henry William Saad
/s/ Joel P. Hoekstra
/s/ Michael R. Smolenski